



MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Bogue, followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS Zermeño, McKillop, Sacks, Caveglia, Halliday, Thnay
CHAIRPERSON Bogue

Absent: COMMISSIONER None

Staff Members Present: Patenaude, DeLuz, Camire, Conneely, Looney, Pearson, Rizk

General Public Present: Approximately 30

PUBLIC COMMENT

AGENDA

1. Modification of Conditional Use Permit Application No. PL-2003-0200 and Variance Application No. PL-2003-0201 – Parwani & Associates, Inc. (Applicant), Shakil Bafaiz (Owner) – Modification of Existing Auto Service Station to Allow the Expansion of a Mini-Mart with a Variance to Allow Less Than 20 Percent Landscaped Area and Zero Lot Line Setbacks on a 10,703-Square-Foot Lot Where a 20,000-Square-foot Lot is Required – The Property is Located at 392 West Harder Road
2. Appeal of Planning Director Denial of Site Plan Review No. PL-2003-0012 - James Jensen (Applicant/Owner) – Request to Construct a Single-Family Dwelling with a Two-Car Garage that Exceeds 50 Percent of the Frontage of the Dwelling – The Property is Located at 24431 Second Street
3. Site Plan Review No. 01-130-11 and Variance No. PL-2003-0236 – Chris Zaballos for R. Zaballos & Sons, Inc. (Applicant)/Zaballos Enterprises and John Erickson (Owners) – Request to Remodel and Reface an Existing Warehouse Building, Demolish an Existing Residence and Build a Two-Story Retail/Office Building with No Setback along the Main Street Frontage Where 4-Feet is Required – The Project is Located at 22405 Through 22425 Main Street, at the Corner of Hotel Avenue
4. Site Plan Review PL-2003-0177/Vesting Tentative Map Tract 7436 PL-2003-0178 – The Olson Urban Housing LLC (Applicant)/City of Hayward Redevelopment Agency (Owner) – Request to Construct 46 Condominium Residences on 1.95 Acres - The Property is Bounded by Atherton, Watkins, "C" and "D" Streets

PUBLIC HEARINGS

1. Modification of Conditional Use Permit Application No. PL-2003-0200 and Variance Application No. PL-2003-0201 – Parwani & Associates, Inc. (Applicant), Shakil Bafaiz (Owner) – Modification of Existing Auto Service Station to Allow the Expansion of a Mini-Mart with a Variance to Allow Less Than 20 Percent Landscaped Area and Zero Lot Line Setbacks on a 10,703-Square-Foot Lot Where a 20,000-Square-foot Lot is Required – The Property is Located at 392 West Harder Road

Associate Planner Camire described the property and location. She explained that the owner is asking to expand the mini-mart. She noted that when the station was built in 1959, it conformed to development standards. This is the only mini-mart in Hayward associated with a service station that is licensed to sell beer and wine. She said that they are requesting to build to the lot lines. Current code requires the site to be at least 20,000 square feet. It is presently 53 percent of what would be required today. They would remodel the existing mini-mart in a Spanish style with stucco and terra cotta roof. The owner has stated that he has received calls from customers and neighbors asking for the mini-mart to be upgraded and restroom facilities added. Staff believes the zero lot line would cause difficulty and since there are too many driveways on the site, staff recommends denial. That the lot is too small to be developed as proposed since there is not enough space for vehicle circulation, landscaping, and parking to accommodate the mini-mart expansion.

Commissioner Thnay asked whether there was sufficient parking and whether the Fire Department next door had any comments on the variance.

Associate Planner Camire said that there was at this time it is sufficient, however with the move of the trash enclosure and plants, it would not be. She noted that the Fire Department had no comments. However, there is a driveway behind the station itself.

Commissioner Caveglia asked about the landscaping now.

Associate Planner Camire said the site is not landscaped.

Commissioner Zermeno asked what the alternatives would be.

Associate Planner Camire explained that with the administrative minor modifications to the Use Permit, the owner would be allowed to remodel the building but not enlarge it.

Public Hearing Opened at 7:42 p.m.

Joseph Halifax, architect, explained that currently there is enough parking but to follow the conditions, they would lose many parking spaces. He described the present setbacks at 10-feet. He said this is a busy intersection and they would place the building as far as possible from the street. He said the back of the building abuts the Fire Department driveway. As to the alcohol permit, they currently allow for sale beer and wine, which they will continue and will not increase the area of sales. He said they are not proposing a new structure but just to modify the



existing structure. He commented that the requirement for a building with 20-foot setback is a requirement for single-family residents. Currently there are no restrooms and one is proposed to be added.

Commissioner Halliday asked what they hoped to accomplish with this remodel and the increase in size.

The response was that they would be able to increase the variety of food in the market. He emphasized that there was no intention to increase the alcohol sales area. However, since this building is not good enough for the neighborhood, this would be an upgrade.

Commissioner Caveglia asked Mr. Bafaiz, the owner, how much beer and wine is sold.

Mr. Bafaiz said they estimate the amount of sales from beer and wine is from \$200-\$300 a month. He noted that they have received compliments from the Alcoholic Beverage Commission. He added that presently there is not a restroom.

Commissioner Sacks said she was curious to know why they do not just dress up the place to make it look good.

Principal Planner Patenaude explained that it is typical to ask the facility to comply with as much of the current code as possible when they remodel and expand. However, if they were just dressing up the existing building, a public hearing would not be required.

Commissioner Zermeño asked Mr. Bafaiz whether he was being asked to do the upgrade or whether he initiated it.

Mr. Bafaiz explained that he had received 300 signatures from customers asking that they do this. He added that the City of Hayward was not asking for it.

Commissioner McKillop asked how long he had owned the service station/mini mart and whether he had thought at the time of purchase to expand.

Mr. Bafaiz explained that he bought the service station five years ago and at the time could not afford to expand.

The public hearing was closed at 7:54 p.m.

Commissioner Thnay commented that he used to live in the neighborhood. The whole area of Schafer Park is being brought to a higher standard, although he indicated selling alcohol is a concern at this site. He noted that the setback criteria for this smaller lot might not be a fair application since it would basically condemn the site to no existence. This would only encroach on the Fire Department site. He noted that the building would not be too bulky. He asked staff

whether it would be a safety issue if the standard were not applied. He also noted that the alcohol sales would not be expanded and suggested relocating the trash enclosure to one of the parking spaces since there were enough of them. He agreed that it would be an asset to the area for this space to be cleaned up.

Principal Planner Patenaude again reiterated that this would not include expansion of area for alcohol sales. He said staff is trying to bring the site into conformance with today's standards. He added that the community might be better served with updating the area for the sale of gasoline and not focus on the retail, since there is other retail in the area. He added that there is no proposed circulation plan for the site in this application.

Commissioner McKillop said she was torn about this project since the site needs a lot of attention and is presently an eyesore. She said she would like to find a way for the owner to update the site without expansion, since with this proposal there are just too many things going on. She then moved, seconded by Commissioner Caveglia, to deny the Use Permit Application.

Commissioner Sacks commented that as she sat in her car looking at the site, she was wishing to find a way to improve it. It is unsightly. She noted in particular a flowerbed on the corner with nothing in it. She added that since nothing has been done to improve the site, it does not encourage or inspire confidence. She said she would support the motion.

Chairperson Bogue asked whether, if this application were denied, could the applicant still come back with some variances without the one-year waiting period.

Assistant City Attorney Conneely suggested that denial of this application be without prejudice, which would dismiss the one-year period.

Chairperson Bogue asked the maker of the motion and seconder whether they would include "without prejudice" in their motion for denial. Both agreed.

Commissioner Zermeño suggested alternatives to property owner. He said perhaps he might look towards the gas and pumps. They could sell more gas with the whole of Schaefer Park as a monopoly. He asked the applicant to come back with something different since the Commission seemed inclined to see the property improved.

Commissioner Halliday explained that it was difficult to deny since the owner is making an effort. However, increasing the size of the mini-mart might not be the answer since there is already too much on the site and no room to do what they want. As to the setback requirement, she noted that this is a commercial lot in a residential area. She said she would not oppose to some expansion.

Chairperson Bogue said he would like to see them redesign the canopy. Although the Fire station driveway is adjacent to this site, he would like to see landscaping along the fence since the next property is a residence. He suggested they look at the Fire station's site which shows that landscaping is important.



The motion passed 7:0. Chairperson Bogue noted that this could be appealed to the City Council.

2. Appeal of Planning Director Denial of Site Plan Review No. PL-2003-0012 - James Jensen (Applicant/Owner) – Request to Construct a Single-Family Dwelling with a Two-Car Garage that Exceeds 50 Percent of the Frontage of the Dwelling – The Property is Located at 24431 Second Street

Assistant Planner DeLuz presented. He noted that currently the property is vacant. The Landscape Architect is asking for an arborists report on trees at the site. He asked the Commission to uphold the Planning Director's denial of the site plan review since staff cannot find grounds to support the applicant.

Commissioner Halliday asked Assistant Planner DeLuz to discuss the applicant's indication that he was not told about the concern staff had with the garage location in the front of the site.

Assistant Planner DeLuz said that when he saw the application, the garage was an issue. He added that when the Parcel map report was filed in 1993. That would have been the time to dispute the garage requirement.

Commissioner Halliday discussed the design with garage doors on the east side and would parking in front of the garage would be blocking the view from the home. She noted that two other homes behind the lot use this driveway for access.

Commissioner Sacks. Asked for confirmation of the easement to the house from the back of the property and not the red fence house.

Assistant Planner DeLuz concurred that the easement presently was just to serve the two homes at the back.

Commissioner Zermeno asked about a letter in the staff report regarding a trench following the side of the driveway.

Assistant Planner DeLuz said it was not clear. However, there is a requirement to relocate the utilities underground. Since overhead service serves another property some accommodation will have to be made. He added he was not sure about the utility trench, however there has been discussion regarding the utility installation. This information would be presented at the building permit stage as to how the homes in back will be serviced.

The public hearing was opened at 8:18 p.m.

Kathy Catanho a neighbor to the back said she was not thrilled with the project of trenching down the driveway. She did support the applicant, though. It is a well-designed and well-

constructed house, which would be an addition to the neighborhood. She said she would like to see the garage remain at the front since more traffic going down the easement would affect her. This design would keep cars closer to the street, which is good. She asked commissioners to give serious consideration of this request.

Commissioner Halliday asked her where she lived.

Ms. Catanho said northwest of the subject property. She described her house as to the right and setback from 2nd Street. She added that it is not a huge problem but she did not want to see more traffic through the driveway easement.

Harold Davis, who was speaking for Mr. Jensen, noted that they had modified the façade with windows and glass panels not to look like a garage. He added that it is a misconception that the house with the red fence does not use the driveway. Although at present it does not, it has the right to do so. As a result there would be more congestion with the garage in the rear. Presently it is difficult and dangerous to turn in the street, now cars back out into Second Street. He spoke to today's guidelines and said this is essentially a narrow lot that was legally created and previously approved by Planning Department and Planning Commission. He asked for approval of moving the garage toward the front.

Commissioner Sacks said she was curious about the drawing indicating the parking since none of the cars were parked in the garage.

Mr. Davis said he had never seen cars in the driveway. He noted that when there is not 20-feet, the requirement is to park in the garage, since they cannot park in the easement.

Commissioner Halliday said she had the same question. She then commented that they had done a nice job in designing the garage.

Mr. Davis indicated that cars would have to be in the garage. He suggested that the Commission might include a condition of no parking in front of the garage in the driveway.

Principal Planner Patenaude noted that the biggest issue with having such a condition would be enforcement since this would not be a high priority.

Commissioner Zermeno asked about the large tree on the lot and the plans for it.

Mr. Davis indicated that the site plan shows that the tree is three to four feet from the property line. The garage can be redesigned to keep it away from the tree. He added that the tree would be protected and that the applicant has no intention of damaging the tree.

James Jenson said he has lived there 30 years. He said he is the permanent owner and co-designer of the plans. He noted that the issue is the garage. He added that there are too many cars and turn-around is difficult. He said the fire insurance costs would be increased and lower the property values were the garage in back. He said he started with the plans in 1992, spent time, money and met with the neighbors. None of the neighbors want the garage in back. They all want the garage in front. It would provide a buffer for noise from the street, and vehicles,

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COMMISSION, CITY OF HAYWARD****Council Chambers****Thursday, June 12, 2003, 7:30 P.M.****777 "B" Street, Hayward, CA 94541**

which might not make the turn coming off the street. Having the garage in front protects the occupants with no increase in traffic at the back and does not make the turn-around more difficult. He said it would create a better flow onto Second Street. He asked for a vacation from the City to widen the driveway. He added that there are sound reasons for erecting the garage in the front, adding that so far this has been a 15-year project.

Commissioner Halliday asked about the size of the house and how many cars there might be on the property.

Mr. Jensen said the gentleman who will help build it will also own and live in it and was available to speak to the issue.

Commissioner Halliday spoke to her concern of people parking in the driveway.

Mr. Jensen said he applied for the vacation from the City of Hayward to relieve the problem and save the tree, with further access in and out to the street. He commented that there is a tendency for neighbors to park their cars in front of their houses.

Justin Palmer, a neighbor from across the street, agreed parking is a problem. People end up backing out onto Second Street. He emphasized that more parking in the back would make the situation worse than it is. He added that the lot would look better with a house on it. He said his apartment is behind the car parking so there is no noise from the traffic on the street. It helps to buffer the noise. He noted that more cars in the back on this property would be dangerous.

Clyde Moch, prospective buyer and co-designer of the house, said if the garage were in the back, it would not fit their family's requirements since the back deck would disappear. He said they had consulted City staff to make sure plans would be satisfactory so they were surprised with the drastic design change. He said the street noise interrupts their lives. Having the garage in front would be a noise buster. He added that it would add a safety factor as well since this property is at the bottom of a downhill curve on Second Street. Any car going astray would go through the garage and not the house. He then asked for consideration of these points.

Commissioner Halliday asked him how many cars would they have when they live there.

Mr. Moch responded two cars that would park in the garage. He also noted that the front door is above the cars.

The public hearing was closed at 8:54 p.m.

Commissioner Zermeño suggested concentrating on the esthetic value of the house. He suggested it was a good project. He moved, seconded by Commissioner Sacks, to uphold the appeal of the denial.

Commissioner Sacks asked what they were to do about both CEQA and findings for approval of the appeal.

Assistant City Attorney Conneely suggested they could either craft the findings at this point or direct staff to bring back findings.

Commissioner Zermeño suggested they ask staff to bring back findings.

Chairperson Bogue suggested commissioners explain what the findings are and why it would be appropriate for staff to bring back findings.

Assistant City Attorney Conneely noted that there would be some basis for findings such as the situation of the lot on Second Street, the configuration of Second Street and the high volume of traffic, the fact that the driveway easement is shared by several properties, and that it is a flag-shaped lot.

Commissioner Sacks commented that the design itself has a lot to do with her support of the motion since the building really does not look like a garage.

Chairperson Bogue asked that the motion be modified for staff to bring back findings of approval.

Commissioner Sacks asked that it also include saving the tree on the property. This was agreed.

Commissioner Halliday commented that staff should easily make the findings. As the Assistant City Attorney noted it is an unusually shaped lot. As an aside, she added that they have done a pretty good job of designing a house that fits the lot. She noted that she learned that this might be the best location for the garage. It does face sideways and not face the street so it is not going to look that bad. She said she hoped they have a nice automatic garage door opener and use it. She added that all things considered this is a good solution.

Principal Planner Patenaude clarified that conditions would include the desire for a garage door opener and to save the tree. These were included in the motion.

Commissioner McKillop added one more condition. She said she did not want to see another cinderblock fence on Second Street, anything but cinder block. She added that actually the fence did not even need to be solid.

Commissioner Zermeño said he would include the wooden open type fence as a condition, with the Planning Director's approval.

Commissioner Sacks said she would agree to the requirement of no cinder block fence, but would not agree to more in the motion about a fence. She disagreed with determining the type of fence. She said she would withdraw her second to the motion.



Commissioner McKillop said she would second the motion with the condition regarding an open-type fence.

The motion passed 7:0, to approve the appeal of the Planning Director's denial.

3. Site Plan Review No. 01-130-11 and Variance No. PL-2003-0236 – Chris Zaballos for R. Zaballos & Sons, Inc. (Applicant)/Zaballos Enterprises and John Erickson (Owners) - Request to Remodel and Reface an Existing Warehouse Building, Demolish an Existing Residence and Build a Two-Story Retail/Office Building with No Setback along the Main Street Frontage Where 4-Feet is Required – The Project is Located at 22405 Through 22425 Main Street, at the Corner of Hotel Avenue

Associate Planner Pearson presented the report. He noted the location of the project. He described the property and existing buildings. The property is complicated by a fault going through the middle of it. A variance from the four-foot setbacks is requested. The developer will encourage more pedestrian traffic. Staff supports the no-setback along Main Street. He said it is an attractive proposal with a nice sign program. Staff recommends adoption.

Commissioner Sacks asked about Fault "B" shown in the staff report.

Associate Planner Pearson explained that it had not been determined to be an active fault so there would be no need for a setback.

The public hearing was opened at 9:17 p.m.

Calen Grant, architect for the project noted that Gil and Chris Zaballos were in attendance, as well as the owner of the property, and the senior designer. He commented that the project benefited from being located on a good site. As a result they were able to create a street friendly, pedestrian friendly cannery style project. They hope to attract an upscale restaurant. He indicated that the green structure would contrast nicely with brick structure. He added that the plans included all the amenities as well as lighting, glazing and signage. In reference to the site plan, he noted that the entrance would be from Main Street. There will be a drop off point at the front. He then described the traffic pattern as well as parking, which would be in the rear or circulate around to Main Street. He noted that they have exceeded the parking requirement. He added that landscaping at the site and for the project is important. Since there will be a fairly high retaining wall along Hotel Street. They are trying to mitigate the feeling of a high wall by adding decorative planters and vines, which will coat it, not dissimilar to freeway sound walls. He indicated that plans include keeping structure "B" with all the heavy timber. He described the project as people friendly and having an animated building and site plan. He pointed out lighting on the site and well as proposed signage. He noted that all the accent colors are black, with the canopies of stainless steel with black lettering. He asked for removal of condition of approval number 3 and questioned numbers 6, 14, 20 and 40.

Commissioner Halliday said the site plan did not show the pedestrian walking paths.

Commissioner Zermeno asked about the 14 trees on the site.

Commissioner Sacks asked specifically about the large Peppertree on Hotel Avenue and whether it would stay or would go.

Mr. Grant said it goes.

Commissioner Caveglia then asked about several conditions of approval. Particularly number 3 under the General Conditions of Approval holding the City harmless against all loss, etcetera.

Assistant City Attorney Conneely said these are standard approvals and generally in all project conditions. It is to protect the City from frivolous lawsuits. If the project is approved, staff does not want a lawsuit.

Gil Zaballos commented that he had never seen this terminology. He said it would be fair for the City to be responsible for their action, just as, as the developer, they will be responsible for their actions.

Frank Goulart commented about calling this the historic Zaballos building. He noted that already the neighbors really like it. He recommended approving the variance since there will be no harm in having the building right up to the sidewalk. He did note the location of the active trace of Hayward fault, saying it was really dangerous at the top of the hill. He then suggested the street be made a one-way street rather than a two-way, either up or down the hill. He added that there should be some way to be able to save the tree with the retaining wall. He said he has also asked the developer to come up with a historic feature that this is part of the old Hayward Hotel and honoring Rusty Zaballos. He noted that Mr. Zaballos has been building houses in the City of Hayward since 1946, so it would be appropriate to have something on the site honoring him and his contributions to the City of Hayward. He added that he strongly approved the project.

Commissioner Halliday then asked about the pepper tree and why it could not be saved on the edge of the property.

Associate Planner Pearson responded that because of the road widening, the site is constricted and there is not enough room.

Commissioner McKillop asked about making the street a one-way street.

Associate Planner Pearson said it had not been considered with the project.

Barbara Swarr expressed her appreciation for the Zaballos family for this project. She added that it is a good project.

The public hearing was closed at 9:45 p.m.



Commissioner Halliday said she would echo these sentiments. It is a wonderful project. She said she particularly liked the reuse of buildings on the site. She also agreed with the historical aspects. She then moved, seconded by Commissioner Sacks, to approve the staff recommendation.

Commissioner Sacks agreed with these comments. However, she did not want to see the pepper tree go.

Commissioner Zermeno described it as a future landmark.

Commissioner Caveglia said he liked the building. He added that this should be a lesson to the Commission not to always take the first proposal they see since this wasn't the first proposal for this site. He noted that they could have had a large building at this location. He told members to hold on to what you want, no matter if the property has to stay vacant awhile.

Commissioner McKillop echoed the sentiments saying it was a wonderful project.

Commissioner Thnay agreed that it will make an excellent addition for downtown. He then recommended adding bike racks to really encourage non-automotive travel. Perhaps extra stalls could be placed near the street. He added that this is a great example of good downtown building.

Commissioner Zermeno noted that he has heard of a restaurant in Pleasanton looking for a site.

Chairperson Bogue commented that this looks like an older building and he appreciated that.

The motion passed unanimously.

4. Site Plan Review PL-2003-0177/Vesting Tentative Map Tract 7436 PL-2003-0178 – The Olson Urban Housing LLC (Applicant)/City of Hayward Redevelopment Agency (Owner) – Request to Construct 46 Condominium Residences on 1.95 Acres - The Property is Bounded by Atherton, Watkins, "C" and "D" Streets

Associate Planner Rizk presented the report describing the development for Site 4 as High Density residential. He noted that all of the previous buildings have been demolished and the site has been deemed appropriate for residential development. He indicated additional parking will be along Watkins Street. He noted that all of the surrounding street trees will be retained. The project will consist of 46 condo units, with a variety of designs including the Craftsman, French Country and Spanish Colonial styles. He said the developer is working with the Redevelopment Agency on development of this project. One of the restrictions is for 22 second- story flats to be affordable to moderate income households. He noted that there will be a six-foot wooden fence around the Heringer property. Staff has proposed slightly relocating and reconfiguring the private fenced areas between buildings, which would require staggering the side garage doors. He said

the amount of private open space proposed for the site, the limited number of dwelling units proposed, and the proximity of the site to Library Square justified waiving the group open space requirement. Associate Planner Rizk confirmed that the Core Area Plan indicates that the Library Square should take on a more expanded role as a center for community and recreational activity, as the downtown core is repopulated, and the in-lieu park fees could be used to develop new facilities at the Square or in another location near City Hall. He said there should be sufficient parking with the near-by parking structure and along Watkins and Atherton Streets. Staff has recommended the trellis be incorporated into the three styles of buildings along C and D Streets, and that there will be no fencing or air conditioning units along those two streets.

Chairperson Bogue asked about the sprinkler requirement.

Associate Planner Rizk said yes, they had received comment and input from the Fire Department to not require them in the duplexes.

Commissioner Zermeño then asked whether the Commission could recommend that they have them.

Assistant City Attorney Conneely said requirements can be enlarged upon but not reduced, provided the City of Hayward is not preempted from doing so.

Commissioner Zermeño then asked about the use of the park in-lieu fee and whether that was a requirement and not a recommendation.

Assistant City Attorney Conneely said the allocation of fees within a larger, designated zone was in the in-lieu fee ordinance.

Principal Planner Patenaude noted that staff's recommendation regarding the in-lieu fees was in the Conditions of Approval as Condition 17.

Commissioner Zermeño then asked about plans for the Heringer parcel.

Associate Planner Rizk said the developers are building around it.

Redevelopment Director Bartlett responded that the Redevelopment Agency has no plans for that site, and that the Agency is not acquiring that property, so it is not part of the development site.

Commissioner Thnay asked about the upper flats being designated for sale to moderate-income households.

Associate Planner Rizk explained that this will be formulated between the Redevelopment Agency and the Olson Company in the development agreement.

Commissioner Thnay emphasized that this is an important area and new recreational facilities should be designed for wider appeal to include something for everyone.

Commissioner Sacks asked about the comments on page 5 of the agenda report, to eliminate the



side doors to the garages along C and D Streets for security reasons.

Associate Planner Rizk explained that the top elevation on page 16 of the plan set, representing the view along C and D Streets, does not show the doors.

Commissioner Halliday asked whether the driveway would be gated.

Associate Planner Rizk said there is no proposal for gating at this time.

Commissioner Halliday then asked whether it would be accessible to walkers.

Associate Planner Rizk explained that this would still be private property so it would be up to the applicant.

Commissioner Halliday agreed that fencing should be moved back between the buildings. She said she was surprised to see staff's recommendation for active recreation on Library Square, noting that it is presently open space, so she might support benches, but a tot lot or basketball court, she wondered about.

Associate Planner Rizk explained that the new recreational facilities might be placed there or at another downtown facility.

Chairperson Bogue asked about the side yard and garage doors.

Associate Planner Rizk said the side doors would need to be staggered.

The public hearing was opened at 10:17 p.m.

Joseph Bradford of the Olson Company said they were asking for approval. He then described their history and various projects in the area. He noted that there was more parking proposed than is required by the City of Hayward for a downtown development, and that they would add the trellises recommended by staff.

Commissioner Zermeno asked whether the stucco would be integral or painted.

Commissioner Caveglia asked whether they were townhouses or condos.

Mr. Bradford said they were all condominiums in terms of ownership.

Barbara Heringer Swarr said she had noticed vehicles coming in from Mission Boulevard and exiting to Watkins Street and was worried that this would become a problem. She expressed her concerns about such traffic with children. She then asked about the in-lieu fees being charged to the developer. She indicated that there is no park in the area for children and this project, as well

as others, will be adding a tremendous number of children, and although there is a beautiful park at the plunge, the City of Hayward needs to improve the park space in the downtown area. She said she has gone through construction before and each time there is a great deal of cleaning at her mother's house that needs to be done. She noted that it is standard practice for house cleaning service to be provided. She also emphasized that the fence should be stable and the responsibility of the Homeowners Association. She suggested that rather than have a concrete fence, it might be better to create a divider between the properties. She then asked whether the heirs to the Heringer property would be able to subdivide at a future date and again she emphasized paying particular attention to the fence and cleaning, since development would create so much dust and noise.

Associate Planner Rizk explained that the project is subject to the old in-lieu park fees because of the vesting tentative map completion date. He added that properties in the Redevelopment area are subject to 50 percent of the in-lieu park fees.

Ed Novak, architect, asked that a greater pitch on the roof of the French Country style not be included in the Conditions. He said they had already redesigned to a greater pitch. He also expressed concern about Condition 13, since the developer did not want to be required to put downspouts inside the buildings. Regarding the private yards between the buildings, he said he was aware of utilities on the back sides of the garages, which had to be addressed. He noted that putting two more elements on the back sides will mean a much tighter space.

The public hearing closed at 10:38 p.m.

Chairperson Bogue asked whether the Homeowners Association would accept the re-development of the Heringer property, if it occurred in the future.

Assistant City Attorney Conneely said if the Association by-laws are drafted so that it is developed that way in the future, the parcel itself is subject to become part of the complex.

Chairperson Bogue then asked about the setbacks for a gate.

Development Engineer Gaber explained that it might be difficult to get a gate in that space, given the proximity of garages to C and D Streets.

Commissioner Zermeño asked why staff wanted the pitches of roof steeper.

Associate Planner Rizk explained that it was more for aesthetic reasons as an architectural look to strengthen the French style. He admitted that the architect had already made some changes to the plans.

Commissioner Zermeño explained that the architect had convinced him about limitations to the ceiling plate heights. He then asked about exterior downspouts rather than interior.

Associate Planner Rizk said that staff did not feel strongly about the issue, given the City Walk and Atherton Place developments had exterior downspouts.

Commissioner Zermeño then asked about a cleaning crew for the Heringers.



Principal Planner Patenaude said he could recommend that.

Commissioner Sacks wondered whether that item should not be included later with the next step, since this was only the site plan review.

Chairperson Bogue reminded her that this is the only time the Planning Commission would see the proposal since Council would have the development agreement later.

Commissioner Caveglia moved, seconded by Commissioner Zermeño, to approve the site plan review, the Vesting Tentative Map Tract 7436, and find that the project is categorically exempt from CEQA with the exception of the following clarification/changes to conditions: Drop Site Plan Review Conditions number 5 and number 13. Conditions of Approval for Vesting Tentative Tract Map 7436: maintain stated language for Condition 27 j.; each building shall have fire sprinkler protection, and indiete development is two, not three stories, in Condition 27 h.

Chairperson Bogue asked about attachment C, Condition 5, regarding the pitch of roof in the French Country style homes and whether the Commission needed to change it or leave it alone.

Associate Planner Rizk explained that staff was recommending an even steeper pitch.

Chairperson Bogue discussed an amendment for Condition 17 and the park in-lieu fees. He said it would be inappropriate to use the area at Library Square for a playground. He noted that the Planning Commission does not have the right to predetermine where the funding is to go. He said he thought the Condition, as stated, would lock this bit of money into that specific area and that in reality the money is required to go to this zone.

Principal Planner Patenaude explained that, although the money must be spent in the specific in-lieu fee zone, it could be spent for a location quite a distance from this project, so staff would like to keep this condition as stated.

Commissioner Halliday suggested that it might read, "a playground at a nearby site to be determined," without identifying Library Center as the site. She then noted that the condition reads "and/or in one of the open spaces surrounding City Hall."

Commissioner Zermeño recommended that the Redevelopment Agency work out the house cleaning issue with the Heringer family.

Redevelopment Director Bartlett then asked whether the Commission wanted the proposed good-neighbor fence to be located outside the Heringer line or should they ask for voluntary access.

It was determined that the location should be outside the Heringer property line.

Commissioner Halliday noted that it was a good project, but that the lack of recreational facilities and open space in the downtown area needs more thought. She commented that the City of Hayward needs to do more planning with all the housing that is being built in this area. She indicated that the project was particularly innovative, with second story flats that will be affordable. She suggested planners start thinking also of the elderly and disabled, noting everything had steps in this project but no one was thinking about people who cannot use steps.

Commissioner Sacks said she echoed those thoughts and suggested considering the aging population who do not move as well. Regarding the suggestion made earlier for a tot lot in Library Park, she said it had been determined previously that such a facility would destroy the peace and could be dangerous. She noted that it is still necessary to have quiet areas.

Chairperson Bogue said he had spoken with the applicant about landscaping.

Commissioner Caveglia said he would go along with the housecleaning requirement in his motion and encourage the Redevelopment Agency to work out something regarding that.

The motion passed unanimously.

ADDITIONAL MATTERS

5. Oral Report on Planning and Zoning Matters

There were no oral reports.

6. Commissioners' Announcements, Referrals

Commissioner Zermeño asked for consideration of closing Watkins to traffic.

Commissioner McKillop asked about the cleaning schedule for all the new businesses in the area. She commented that they are selling food that is being eaten on the sidewalk and leaving a messy area behind.

Principal Planner Patenaude said the development company or the businesses usually handle this privately.

Commissioner Sacks agreed that they open their business but they ignore the mess around it.

Commissioner Halliday also agreed that it needs attention. She noticed mice in the outdoor seating area recently.

Chairperson Bogue announced an upcoming meeting sponsored by AC Transit who is proposing changing bus routes throughout the City of Hayward. There are proposals to eliminate long-term routes that have served residents for years. He suggested people check the web site. He then noted that next Thursday would be the first of the City of Hayward's Downtown Street Parties.

MINUTES



**REGULAR MEETING OF THE PLANNING
COMMISSION, CITY OF HAYWARD**

Council Chambers

Thursday, June 12, 2003, 7:30 P.M.

777 "B" Street, Hayward, CA 94541

APPROVAL OF MINUTES

- May 8, 2003 - APPROVED
- May 22, 2003 - APPROVED

ADJOURNMENT

The meeting was adjourned by Chairperson Bogue at 11:08 p.m.

APPROVED:

Barbara Sacks, Secretary
Planning Commission

ATTEST:

Edith Looney
Commission Secretary